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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
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In the Matter of	{	
	{	
Advanced Television Systems	{	Rulemaking Document No. RM-9260
and Their Impact upon the	{	Petition for Rulemaking for Class A Service
Existing Television Broadcast	{	
Service	{	

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COMMENTS OF SIGNAL SCIENCES

- Foreword -

Signal Sciences, a broadcast & broadband communications engineering firm, acting on behalf of KZZA-LP television station in northern Arizona hereby submits it's comments on the Petition For Rulemaking for Class A Service.

- Introduction -

We recognize the need for a new rulemaking which will allow certain low power television stations which originate local programming and thereby uniquely serve the special interests of their communities to obtain primary spectrum user or 'Class A' licenses. We also agree that implementation of such a rulemaking is necessary and that action on this matter is critically urgent and should be undertaken immediately by the Commission to protect low power television stations which provide valuable and irreplaceable local origination programming services to their communities. In addition we believe that such a rulemaking would provide important additional incentive to those stations wishing to provide programming of a local nature yet which may have been reluctant to make the high investment usually required to offer such programming. We also believe that the adoption of rules for a new primary 'Class A' service for low power television would be clearly in keeping with the directives expressed by chairman Kennard and commissioners Ness, Tristani and others regarding the importance and need for additional local and special interest programming in broadcasting. We therefore urge the Commission to proceed without delay in formulating Class A rules for low power television stations, using as a guideline the proposals submitted by the CBA in their petition and subsequent amendment. We would also however suggest that the following inclusions be made in the draft of such rules on issues which we believe have not been adequately addressed in the petition submitted by the CBA.

Note: A mistake was brought to our attention in the CBA Petition listing 2,300 meters where feet was intended.

(I) Local & Special Interest Programming for Stations Qualifying for a Class A License

We believe that actual definition of the proposed 3 hour per calendar week programming which may qualify as meeting a prevailing local or special interest should be only very broadly defined. We believe that the Commission should carefully consider all comments and arguments expressed in this matter well in advance of drafting any definitive rules outlining specific requirements for such programming. We believe it would be the wisest choice for the Commission to set only general guidelines for such programming, leaving open to interpretation by the station seeking eligibility the actual specifics, within reason, of what qualifies as local and special interest programming. We suggest that broadcasts of recorded and live audio programs of a local nature transmitted over a station's primary subcarrier channel should also be eligible to qualify as local and special interest programming. We would point out here that many full service stations provide fewer than 3 hours per week of locally originated programming due to the expense of such programming and the significant burdens that in-house programming can place on a station regardless of the station's size or the market it serves. Such an open approach would allow stations the freedom they need in producing both creative and interesting programming of a local nature that is affordable to them. Such an approach to programming also allows the greatest chance of it being continued after Class A status is granted.

(II) Eligibility of Purchased Stations for Class A Licensing

We seek a provision in the rules to allow low power television and TV translator stations to become eligible for Class A status following transfer of ownership or assignment of the station to a new licensee. Such eligibility would be limited to first time transfers only so as to eliminate repeated and frivolous transfers for the exclusive purpose of obtaining Class A eligibility. The provision should be drafted so as to specifically discourage pro-forma transfers and allow Class A eligibility only in cases where there is no retention by the seller of any interest in the station. The rule would include any past transfers or asssignments and thus enable a window for first time transfers only. We suggest the following be added to paragraph 73.627(a) in Appendix A of CBA's Petition for Rulemaking:

"Applications for Class A television licenses may also be filed within two years of a station's first transfer of ownership. Stations that have not been granted a Class A license within two years of their first transfer of ownership which transfer has occurred before or since adoption of the new rules will not be eligible for a Class A license through a second or later transfer."

Reasons: We feel the adoption of such a rule will aid in the overall intent of the Class A Proposal by providing opportunities for Class A licenses to be eligible to low power and TV translator stations through first transfers of ownership. In addition, we believe that such a rule would in time have the desired effect of diminishing eligibility for the large number of secondary services for which Class A status is not a practical issue while the rule would permit many secondary services an additional avenue to the Class A window of eligibility. Many secondary stations were mass filed by primary stations and intended only to serve as fill-in translators in remote and rural areas. Since these translator stations are often licensed to their primary stations and since changes in primary station ownership are an increasing event especially now during the DTV roll-out period, then many such primary-station-owned translator stations would have already or eventually lose the additional opportunity for a Class A license through this avenue. The rule would allow a window of Class A eligibility within two years of a past or future merger or ownership change and therefore would not be available to many primary stations in this category. However the remaining avenue to Class A licensing (2 year window from the adoption of new rules) is still open to them. In this way the number of eligible stations would be further reduced in an equitable manner and the aims of Class A status are furthered. We would point out that translator groups and associations, most of whom have been and continue to be the sole licensees of their secondary facilities would not be harmed by this rule but would in fact be most likely to gain from it. They would continue to enjoy the level of autonomy of the past and may reap the benefits of financial gain in the sale of any of their non-previously assigned facilities, by a new rule which would permit the purchaser access to a two year window of eligibility for a Class A license. We believe that such a rule serves in the interests of small broadcasters and pioneers of secondary service who initially filed for and built and have retained license to their own facilities.

(III) Multiple Class A Ownership

We propose that by meeting the following conditions Class A licensees would be exempt from sections 73.3555 and yet be able to obtain Class A status for a limited number of stations that serve a single market area and are under common ownership and control:

1) At no point would the grade A contour of a proposed Class A station be allowed to intersect the Grade A contour of any other Class A station for commonly owned stations.

2) The following showing must be made by the licensee of any group of commonly owned stations that seeks to acquire a Class A license for more than one station in a market area. Such a showing must indicate that the additional station(s) for which a Class A license is sought will broadcast substantially different programming of the qualifying 3hr/week local or special interest nature from other Class A station(s) owned by the licensee and serving that market. In addition, at least one Class A station of a commonly owned group of Class A stations which serve a single market must be capable of delivering an over-the-air signal of at least Grade B quality to any franchised cable television headend in that market, whether or not the stations' signal is currently carried by such cable system

Reasons: This rule will insure that in cases of multiple ownership of secondary services in the same market, Class A status is available only to those commonly owned stations which have some degree of separation and at least one of which is separately capable of delivering a Grade B quality signal to the headend of CATV systems which serve that market. Multiple low power station owners that apply for more than one Class A license in the same market should be required to offer different and not the same qualifying 3hr/week local or special interest programming. Further, this rule would limit multiple station licensees that feed their stations programming from a common point from gaining undue advantage strictly through Class A licensing over other singly owned LPTV or Class A stations. It is presented as both a fair and necessary step that will assist in allowing Class A licensees to prepare to meet the eventual requirements of section 73.3555. We believe that the one-to-a-market rule of 73.3555 should go into effect for Class A stations if-and-when must carry becomes available for Class A stations.

(IV) Minimum Allowable ERP for Class A Stations

We believe it is advisable to set a minimum power limit for Class A service. For very low powered stations that do not meet these minimum ERP limits at the time of the grant of their Class A license a period of 6 months should be allowed for filing a power increase for authorization to construct facilities that meet or exceed the minimum ERP limit. Any station which did not meet these limits at the time of their Class A grant should be permitted to file for this increase in a special minor change application. Such applications must be submitted within 6 months of the grant of their Class A license. If the application is not received within 6 months for an increase to the minimum ERP limits then the station's Class A status should be revoked. Furthermore, a Class A license will not be knowingly granted to any station which cannot achieve minimum ERP limits as listed below:

Channel	Peak Power (NTSC)
VHF 2-13	0.500 KW ERP
UHF 14-59	1.000 KW ERP

Reasons: These limits are low but are probably adequate in keeping extremely low power applicants from filing for Class A licenses and possibly under serving their markets with an inadequate coverage contour. If the minimum ERP limit is made higher than 1KW ERP there may be a conflict in that a number of low power sites which are located close to smaller markets (including many excellent Forest Service sites in the West) have a 1KW maximum ERP transmitting limit for tenants at their site. Hopefully, DTV average power ratings will improve this situation somewhat following these station's conversion to the digital broadcast standard.

(V) Class A Stations That Occupy Channels on the NTSC Table of Allotments

In the case of Class A stations which occupy unused channels on the NTSC Table of allotments and on which channel no full service facilities have been built then we propose granting that Class A station the following advantages and recourse to challenges by any other applicants:

1) If the Full Service applicant was granted a Construction Permit for that assigned channel and if no substantial effort has been made by the holder of the CP of that allocation to build NTSC facilities before the end of the DTV transition period then at the end of the transition period the NTSC allocation is warded to the Class A station unless the permittee can show justifiable cause as to why facilities were not built.

2) If no full service Construction Permit was granted or if a full service Construction Permit was granted and subsequently cancelled for any reason and no full service Construction Permit is in effect at the end of the DTV transition period then the allotment is automatically granted to the Class A station.

In either case where the Class A station is awarded the allocation such award is permanent and may not be further challenged. Use of the allocation may be made by the Class A station for DTV facilities in accordance with rules applying to a DTV full service station.

(VI) Regulatory Fees for Class A Stations & Future Issues

We wish to emphasize that the determination of a regulatory fee level for Class A stations should be assessed in the same manner and not differently from that of low power television and TV translator stations. This should be the practice until a must-carry issue is favorably resolved for Class A stations. We wish to underscore again that the issue of cable carriage for television stations which have expended the resources for local programming is extremely important to their survival and should at some time in the very near future be addressed. Should a form of must-carry be adopted for Class A stations we urge the Commission to consider assessing regulatory fees based upon the size of each station's community of license and individual market penetration.

Respectfully submitted, SIGNAL SCIENCES

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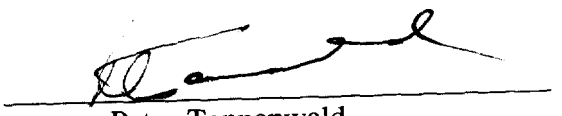
CERTIFICATE OF SERVICE

The law firm of Irwin, Campbell & Tannenwald, P.C., hereby accepts service of the foregoing "Comments of Signal Services" on behalf of the Community Broadcasters Association.



Peter Tannenwald